Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

APPENDIX

IN THE SUPREME COURT
OF THE UNITED STATES

October Term, 1975

No. 75-377

Richard I. Ludwig, Appellant

v.

Massachusetts, Appellee

Appeal from the Supreme Judicial
Court of Massachusetts

Filed September 10, 1975

Probable Jurisdiction Noted
November 11, 1975

IN THE SUPREME COURT
OF THE UNITED STATES

October, 1975

Richard I. Ludwig, Appellant

v.

Massachusetts, Appellee

Appeal from the Supreme Judicial
Court of Massachusetts

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The opinion of the Supreme Judicial Court is set out in the jurisdictional statement at p.1a.

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

February 1, 1974 - Complaint #15338 filed in District Court of Northern Norfolk.

February 1, 1974 - Defendant arraigned, pleads not guilty, continued to 2/25/74.

February 25, 1974 - Continued 3/11/74.

March 11, 1974 - Motion for jury trial denied. Defendant found guilty, fined $20, and "appealed" to District Court of Northern Norfolk Six-Man Jury.

March 20, 1974 - Appeal #4157 entered in the District Court of Northern Norfolk Six-Man Jury.

April 5, 1974 - Defendant's Motion to Dismiss denied. Jury trial waived. Defendant found guilty, and fined $20. Payment of fine stayed.

April 22, 1974 - Defendant's Bill of Exceptions filed.

September 3, 1974 - Defendant's Amended Bill of Exceptions filed.

October 30, 1974 - Defendant's Amended Bill of Exceptions allowed.

December 27, 1974 - Defendant's Bill of Exceptions entered in Supreme Judicial Court #150 of 1974.

June 15, 1975 - Exceptions overruled by Supreme Judicial Court of Massachusetts. Rescript entered.

September 3, 1975 - Defendant's Notice of Appeal to the United States Supreme Court filed in the Supreme Judicial Court of Massachusetts.

September 10, 1975 - Defendant's appeal filed in the United States Supreme Court.

November 3, 1975 - Payment of fine stayed pending defendant's appeal to the Supreme Court.

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

To the DISTRICT COURT OF NORTHERN NORFOLK, holden at Dedham within the County of Norfolk, for the transaction of criminal business.

Robert C. Dietenhofer of Dedham in the County of Norfolk in behalf of the Commonwealth of Massachusetts, on the 1st day of February in the year one thousand nine hundred and seventy-four, on oath complains that Richard I. Ludwig of Norwood in the County of Norfolk, on the 31st day of January in the year one thousand nine hundred and seventy-four, at Dedham in the County of Norfolk, did operate a motor vehicle negligently on a way there situate called Sanderson Avenue, so that the lives and safety of the public might be endangered against the peace of the said Commonwealth, and the form of the statute in such cases made and provided.

(s) ROBERT C. DIETENHOFER,
Complainant.

Commonwealth of Massachusetts

Norfolk, ss.

Taken and sworn to, the day and year first above written.

Before me,

(s) Asst. Clerk

Attest: (c) Asst. Clerk

Norfolk, ss. Dedham Feb. 1, 1974

I found the within-named defendant in the act of committing the offence within alleged, and arrested him for said offence without a warrant and now have him before the District Court of Northern Norfolk, holden at Dedham, aforesaid, for the transaction of criminal business.

(s) ROBERT C. DIETENHOFER
Police Officer of Dedham

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss. District Court of Northern Norfolk Six-Man Jury #4157

COMMONWEALTH

V.

RICHARD I. LUDWIG

MOTION TO DISMISS

Now comes the defendant in the above entitled action and says:

1. On March 11, 1974, he was charged in the District Court of Northern Norfolk on the above entitled complaints.

2. At the beginning of the proceedings he moved the court for a trial by jury in the first instance, asserting his Sixth Amendment right to a speedy trial by jury in the first instance. A copy of said motion is attached and made a part hereof.

3. The district court denied said motion.

4. The defendant was found guilty.

Wherefore, the defendant alleges that his conviction in the district court was void for being incontravention to the Constitution of the United States, Callan v. Wilson, 127 U.S. 540, 556-7; Duncan v. Louisiana, 391 U.S. 145, 158 ftn. 30, 181, 182 ftn. 21, 213; Holliday v. State, 380 A.2d 323; and as such the district court lacked jurisdiction, Jones v. Robbins, Gray 329, 330. Additionally, this court also lacks jurisdiction as this court's appellate jurisdiction must be predicated on the jurisdiction of the district court.

And the defendant further maintains that to try him a second time in these circumstances would violate the double jeopardy provisions of the Fifth Amendment to the Constitution, and the speedy trial provisions of the Sixth Amendment.

By his attorney,

(s) ROBERT W. HAGOPIAN
Robert W. Hagopian, Esq.
Wrentham, Massachusetts
02093

AFFIDAVIT IN SUPPORT OF
DEFENDANT'S MOTION TO DISMISS

Now comes Robert W. Hagopian, who deposes and says that those facts set out in the above motion to dismiss are true and those statements of information and belief are believed to be true.

Signed under the pains and penalties of perjury.

(s) ROBERT W. HAGOPIAN
Robert W. Hagopian

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss. District Court of
Norfolk #15338

COMMONWEALTH

V.

RICHARD I. LUDWIG

MOTION FOR JURY TRIAL

Now comes the defendant and moves this court for a trial by jury in the first instance, a right guaranteed by the Sixth Amendment to the Constitution, Callan v. Wilson, 117 U.S. 540, Duncan v. Louisiana, 391 U.S. 145, ftn. 30;

and a right guaranteed by the speedy trial provision of the Sixth Amendment, Klopfer v. North Carolina, U.S. , Holliday v. State, 280 A 2d 333; and a right guarnateed under the double jeopardy provisions of the Fifth Amendment, Benton v. Maryland, 89 Ct. 2056, United States v. Jorn, 400 U.S. 470.

By his attorney,

(s) ROBERT W. HAGOPIAN
Robert W. Hagopian, Esq.
Wrentham, Massachusetts
02093

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss. District Court of
Northern Norfolk Six-
Man Jury #4157

COMMONWEALTH

V.

RICHARD I. LUDWIG

DEFENDANT'S AMENDED BILL OF EXCEPTIONS

This is a criminal prosecution charging the defendant with driving to endanger, an offense set out in M.G.L. Ch. 90 Sec. 24(2), a copy of which is attached and incorporated herein.

The defendant was charged on April 5, 1974 in the District Court of Northern Norfolk [Six-Man Jury]. He moved the trial court by written motion to dismiss the charge against him, a copy of said motion being attached and incorporated herein. The trial court denied the motion, and the defendant took exception to this denial. The trial judge noted defendant's exception.

The defendant being aggrieved by the action of the court in denying his motion to dimiss, to said action

of the court exception more duly taken, prays that this bill of exceptions be allowed.

By his attorney,

(s) ROBERT W. HAGOPIAN
Robert W. Hagopian, Esq.
Wrentham, Massachusetts
02093

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT FOR THE COMMONWEALTH

IN THE CASE OF June 12, 1975

COMMONWEALTH

V.

RICHARD I. LUDWIG

pending in the District Court of Northern Norfolk for the County of Norfolk, No. 4157.

ORDERED, that the following entry be made in the docket; viz., -

Exceptions overruled.

By the Court,

William M. Cloran,
Asst. Clerk

June 12, 1975

Brief statement of the grounds and reasons of the decision:

See opinion on file.

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

No. 150 of 1974

COMMONWEALTH OF MASSACHUSETTS

V.

RICHARD I. LUDWIG

NOTION OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Richard I. Ludwig, the appellant above named, hereby appeals to the Supreme Court of the United States from the judgment of the Supreme Judicial Court on June 12, 1975. This appeal is taken pursuant to 28 U.S.C. Sec. 1257(2).

By his attorney,

_____

Robert W. Hagopian, Esq.
Wrentham, Massachusetts 02093